

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

GEORGE E. CHAVEZ,

Plaintiff,

No. 1:16-cv-159

vs.

JOSH WEST, SENIOR GROUP LIFE CLAIMS ANALYST, AND
UNITED OF OMAHA LIFE INSURANCE COMPANY AND
MUTUAL OF OMAHA AND/OR AFFILIATED COMPANIES
AND/OR UNUM INSURANCE CO., OR ITS SUCCESSOR, AND
JOHN DOE 1-5 AND JANE DOE 1-5 AS MAY BE IDENTIFIED
INDIVIDUALLY AND SEVERALLY,

Defendants.

NOTICE OF REMOVAL

Defendants submit this Notice of Removal for the purpose of removing the above-entitled action from the Second Judicial District Court, Bernalillo County, New Mexico to the United States District Court for the District of New Mexico and state as follows in support of this removal:

1. Plaintiff George E. Chavez (“Chavez”) is an individual and a resident of Albuquerque, New Mexico. *See* Complaint at ¶ 1, attached as Exhibit A.
2. Defendants Mutual of Omaha Insurance Company¹ and United of Omaha Life Insurance Company (collectively, “Mutual of Omaha”) are Nebraska companies with their principal place of business in Nebraska.

¹ Mutual of Omaha Insurance Company has been misidentified in the case caption as merely “Mutual of Omaha.”

3. Defendant Josh West is a claims adjuster with Mutual of Omaha and is a resident of Omaha, Nebraska.

4. Defendant Unum Life Insurance Company of America (“Unum”)² is a Maine corporation with its principal place of business in Maine.

5. According to the allegations in the Complaint, Chavez is a former employee of the State of New Mexico, Department of Health (“State of New Mexico”) and was insured under two group life insurance policies issued by Mutual of Omaha: No. GLUG-4R80 and No. GSL-4R82 (collectively, the “Policies”). *Id.* at ¶¶ 2–4.

6. According to the allegations in the Complaint, the Policies provided life insurance benefits in the total amount of \$136,000. *Id.*

7. Plaintiff is seeking relief in the amount of \$130,000, in addition to punitive damages. *Id.* at 9.

8. Complete diversity exists between the Plaintiff and all Defendants because the Plaintiff is a citizen of a different state than that of all defendants. 28 U.S.C. § 1332(a)(1).

9. The amount at issue exceeds \$75,000. 28 U.S.C. § 1332(a).

10. Therefore, this Court has diversity jurisdiction over this action pursuant to 28 U.S.C. § 1332.

11. This action is properly removable to this Court pursuant to 28 U.S.C. § 1441(b).

12. The state court in which this action was commenced is within this Court’s district, and therefore, this action is properly removable to this Court under 28 U.S.C. § 1446(a).

² Unum has been misidentified in the case caption as merely “Unum Insurance Company.”

13. Mutual of Omaha will serve and certify service of copies of this Notice of Removal to Chavez as required by 28 U.S.C. § 1446(d).

14. In compliance with D.N.M.LR-Civ. 81.1(a), Mutual of Omaha has attached legible copies of other records and proceedings from the state court action with this notice of removal. Exhibit B.

15. Mutual of Omaha will file a copy of this notice of removal with the Clerk of the Second Judicial District Court, Bernalillo County, pursuant to 28 U.S.C. § 1446(d). *See* copy of state court notice of removal, attached as Exhibit C.

16. Mutual of Omaha received the summons and complaint via fax on February 9, 2016, and was never actually served. This removal is therefore timely under 28 U.S.C. § 1446(b) in that removal is sought within 30 days of receipt by Mutual of Omaha of the Summons and Complaint.

17. Finally, pursuant to 28 U.S.C. § 1446(b)(2)(A), all defendants consent to the removal of this action.

THEREFORE, defendants United of Omaha Life Insurance Company, Mutual of Omaha, Josh West, and Unum give notice pursuant to 28 U.S.C. § 1446 of the removal of this action from the Second Judicial District Court, Bernalillo County, New Mexico, and request that this Court enter such further orders as may be necessary and proper.

DATED March 4, 2016.

Respectfully submitted,

HOLLAND & HART LLP

/s/ Little V. West

By: _____
Little V. West

110 North Guadalupe, Suite 1

Santa Fe, NM 87501

Email: LVWest@hollandhart.com

Phone: 505-988-4421

ATTORNEYS FOR DEFENDANTS

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 4, 2016, the foregoing was filed and served via Odyssey File and Serve on the parties/counsel entered in the Case Service Contacts list and that a true copy of the foregoing was sent by U.S. Mail to the following pro se Plaintiff:

George E. Chavez
6200 Montano Plaza Drive, Apt. 1616
Albuquerque, NM 87120

/s/ Little V. West

Little V. West

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